

EXHIBIT C

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA633382**Filing date: **10/16/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	U.S. Music Corporation
Granted to Date of previous extension	10/22/2014
Address	1000 Corporation Grove Drive Buffalo Grove, IL 60089 UNITED STATES

Name	ESP Shibuya Enterprises, Inc.
Granted to Date of previous extension	10/22/2014
Address	10903 Vanowen Street North Hollywood, CA 91605 UNITED STATES

Name	Cordoba Music Group, Inc.
Granted to Date of previous extension	10/22/2014
Address	1455 19th Street Santa Monica, CA 90404 UNITED STATES

Name	Collings Guitars, Inc.
Granted to Date of previous extension	10/22/2014
Address	11210 West Highway 290 Austin, TX 78737 UNITED STATES

Name	Ed Roman Enterprises, Inc.
Granted to Date of previous extension	10/22/2014
Address	10080 West Alta Drive Suite 200 Las Vegas, NV 89145 UNITED STATES

Name	Armadillo Enterprises, Inc.
Granted to Date	10/22/2014

of previous extension	
Address	4924 West Waters Avenue Tampa, FL 33634 UNITED STATES

Name	Schecter Guitar Research, Inc.
Granted to Date of previous extension	10/22/2014
Address	10953 Pendleton Street Sun Valley, CA 91352 UNITED STATES

Name	Westheimer Corporation
Granted to Date of previous extension	10/22/2014
Address	3451 West Commercial Avenue Northbrook, IL 60062 UNITED STATES

Name	Peavey Electronics Corporation
Granted to Date of previous extension	10/22/2014
Address	5022 Hartley Peavey Drive Meridian, MS 39305 UNITED STATES

Name	Warwick GmbH & Co. Music Equipment KG
Granted to Date of previous extension	10/22/2014
Address	Gewerbepark 46 Markneukirchen, D-08258 GERMANY

Name	James Trussart Guitars, Inc.
Granted to Date of previous extension	10/22/2014
Address	1307 Allesandro Street Los Angeles, CA 90026 UNITED STATES

Name	JS Technologies, Inc.
Granted to Date of previous extension	10/22/2014
Address	601 (A&B) Crane Street Lake Elsinore, CA 92530 UNITED STATES

Name	Premier Builders Guild, LLC
Granted to Date of previous extension	10/22/2014
Address	201 South Highland Avenue Pittsburgh, PA 15206 UNITED STATES

Name	Sadowsky Guitars, Ltd.
Granted to Date of previous extension	10/22/2014
Address	2107 41st Avenue 4th Floor Long Island City, NY 11101 UNITED STATES

Name	John Hornby Skewes & Co., Ltd.
Granted to Date of previous extension	10/22/2014
Address	Salem House, Parkinson Approach Garforth Leeds, LS25 2HR UNITED KINGDOM

Attorney information	Ronald S. Bienstock, Esq. Bienstock & Michael, P.C. 411 Hackensack Avenue, 7th Floor Hackensack, NJ 07601 UNITED STATES ip@musicesq.com Phone:201-525-0300
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Applicant Information

Application No	86168793	Publication date	06/24/2014
Opposition Filing Date	10/16/2014	Opposition Period Ends	10/22/2014
Applicant	Gibson Brands, Inc. 309 Plus Park Boulevard Nashville, TN 37217 UNITED STATES		

Goods/Services Affected by Opposition

Class 015. First Use: 1958/12/31 First Use In Commerce: 1958/12/31 All goods and services in the class are opposed, namely: stringed musical instruments

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Related Proceedings	Gibson Brands, Inc. and John Hornby Skewes & Co., Ltd. are involved in two proceedings involving a similar mark (U.S. Reg. No. 2,007,277) Cancellation No. 92058944 in the TTAB and Case No. CV 2:14-00609-DDP-SS in the United States District Court for the Central District of California
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Attachments	All_Opposers_Notice_of_Opp.pdf(90013 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Brent M. Davis/
Name	Brent M. Davis, Esq.
Date	10/16/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 86/168,793:

Filing Date: January 17, 2014

Published in the Trademark Official Gazette on June 24, 2014

_____)	
ARMADILLO ENTERPRISES, INC.,)	
COLLINGS GUITARS, INC.,)	
CORDOBA MUSIC GROUP, INC., ED)	
ROMAN ENTERPRISES, INC., E.S.P.)	
SHIBUYA ENTERPRISES, INC.,)	
JAMES TRUSSART GUITARS, INC.,)	Opposition No. _____
JOHN HORNBY SKEWES & CO., LTD.,)	
JS TECHNOLOGIES, INC., PEAVEY)	
ELECTRONICS CORPORATION,)	
PREMIER BUILDERS GUILD, LLC,)	
SADOWSKY GUITARS, LTD.,)	
SCHECTER GUITAR RESEARCH,)	
INC., U.S. MUSIC CORPORATION,)	
WARWICK GMBH & CO. MUSIC)	
EQUIPMENT KG, AND WESTHEIMER)	
CORPORATION,)	
)	
Opposers,)	
)	
v.)	
)	
GIBSON BRANDS, INC.,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposers Armadillo Enterprises, Inc.; Collings Guitars, Inc.; Cordoba Music Group, Inc.;
Ed Roman Enterprises, Inc.; E.S.P. Shibuya Enterprises, Inc.; James Trussart Guitars, Inc.; John

Hornby Skewes & Co., Ltd.; JS Technologies, Inc.; Peavey Electronics Corporation; Premier Builders Guild, LLC; Sadowsky Guitars, Ltd.; Schecter Guitar Research, Inc.; U.S. Music Corporation; Warwick GmbH & Co. Music Equipment KG; and Westheimer Corporation (collectively, the “Opposers”), believe that they will be damaged by the registration of the mark in Application Serial No. 86/168,793, and hereby opposes the same. As grounds for the opposition, by their attorney of record, Opposers allege as follows:

THE OPPOSERS

1. Armadillo Enterprises, Inc., a Florida Corporation, having a principal place of business at 4924 West Waters Avenue, Tampa, Florida 33634, United States, is a manufacturer and seller of guitars and bass guitars.
2. Collings Guitars, Inc., a Texas Corporation, having a principal place of business at 11210 West Highway 290, Austin, Texas 78737, United States, is a manufacturer and seller of guitars.
3. Cordoba Music Group, Inc., a California Corporation, having a principal place of business at 1455 19th Street, Santa Monica, California 90404, United States, is a manufacturer and seller of guitars and bass guitars.
4. Ed Roman Enterprises, Inc., a Nevada Corporation, having a principal place of business at 10080 West Alta Drive, Suite 200, Las Vegas, Nevada 89145, United States, is a manufacturer and seller of guitars and bass guitars.
5. E.S.P. Shibuya Enterprises, Inc., a California Corporation, having a principal place of business at 10903 Vanowen Street, North Hollywood, California 91605, United States, is a manufacturer and seller of guitars and bass guitars.

6. James Trussart Guitars, Inc., a California Corporation, having a principal place of business at 1307 Allesandro Street, Los Angeles, California 90026, United State, is a manufacturer and seller of guitars and bass guitars.

7. John Hornby Skewes & Co., Ltd., a United Kingdom Corporation, having a principal place of business at Salem House, Parkinson Approach, Garforth, Leeds LS25 2HR, United Kingdom, is a manufacturer and seller of guitars and bass guitars.

8. JS Technologies, Inc., a California Corporation, having a principal place of business at 601 (A&B) Crane Street, Lake Elsinore, California 992530, United State, is a manufacturer and seller of guitars and bass guitars.

9. Premier Builders Guild, LLC, a Delaware Limited Liability Company, having a principal place of business at 201 South Highland Avenue, Pittsburgh, Pennsylvania 15206, United State, is a manufacturer and seller of guitars and bass guitars.

10. Peavey Electronics Corporation, a Delaware Corporation, having a principal place of business at 5022 Hartley Peavey Drive, Meridian, Mississippi 39305, United States, is a manufacturer and seller of guitars and bass guitars.

11. Sadowsky Guitars, Ltd., a New York Corporation, having a principal place of business at 2107 41st Avenue, 4th Floor, Long Island City, New York 11101, United State, is a manufacturer and seller of guitars and bass guitars.

12. Schechter Guitar Research, Inc., a California Corporation, having a principal place of business at 10953 Pendleton Street, Sun Valley, California 91352, United States, is a manufacturer and seller of guitars and bass guitars.

13. U.S. Music Corporation, an Illinois Corporation, having a principal place of business at 1000 Corporation Grove Drive, Buffalo Grove, Illinois 60089, United States, is a manufacturer and seller of guitars and bass guitars.

14. Warwick GmbH Music Equipment KG, a Germany Corporation, having a principal place of business at Gewerbepark 46, Markneukirchen, D-08258, Germany, is a manufacturer and seller of guitars and bass guitars.

15. Westheimer Corporation, an Illinois Corporation, having a principal place of business at 3451 West Commercial Avenue, Northbrook, Illinois 60062, United States, is a manufacturer and seller of guitars and bass guitars.

BACKGROUND

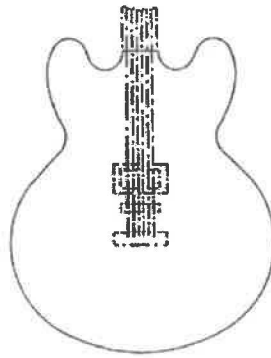
16. Upon information and belief, Gibson Brands, Inc. (“Applicant”) is a Delaware Corporation with a principal place of business at 309 Plus Park Boulevard, Nashville, Tennessee 37217.

17. Upon information and belief, Applicant manufactures, sells and distributes musical instruments, including, but not limited to, electric guitars and electric bass guitars.

18. Opposers are direct competitors of Applicant.

19. Application Serial No. 86/168,793 (the “‘793 App.” or the “Mark”) seeks registration of a product configuration mark consisting “of the uniquely shaped three-dimensional configuration for the body portion of the guitar with a curved base, rounded body shape, and stylized cutaway rounded curves at the top left and right of the guitar body (the “‘793 Body Shape”)” in International Class 015 for “stringed musical instruments.”

20. Although the description of the Mark states that the ‘793 Body Shape is three-dimensional, the drawing is only for a two-dimensional outline of the body shape.



21. Applicant filed the '793 App. on January 17, 2014.
22. The '793 App. was published in the Trademark Official Gazette on June 24, 2014.
23. Opposers timely filed for extensions of time to oppose the '793 App. on July 23, 2014.
24. The Board granted the extensions on the same day.
25. Opposers timely filed for second extensions of time to oppose on August 20, 2014.
26. The Board granted the second extensions on the same day.
27. Opposers file this Notice of Opposition before the expiration of the second extensions of time to oppose.
28. In 1958, Applicant's predecessor-in-interest began manufacturing, advertising, marketing and selling electric guitars incorporating the '793 Body Shape under the model designation "ES-335."
29. Throughout Applicant's use of the '793 Body Shape, the dimensions have not been consistent and variations are common place.
30. The '793 Body Shape was, and is, extremely similar to many other guitar body shapes.

31. Shortly thereafter, and continuing throughout the 1960's, numerous other companies began manufacturing, advertising, marketing and selling, in the United States, electric guitars and basses bearing body shapes that are identical, or substantially similar to, the '793 Body Shape, including, but not limited to, Aria, Baldwin, Coral, Custom Kraft, Danelectro, Fender, Framus, Gretsch, Grimshall, Guild, Guitorgan, Hagstrom, Harmony, Hofner, Hohner, Ibanez, Kay, Levin, Micro-Frets, Mosrite, National, Oahu, Ovation, Roger, St. Moritz, Standel, Strum & Drum, Supro, Teisco, Univox and Vox.

32. In the 1970's, even more companies were manufacturing, advertising, marketing and selling, in the United States, electric guitars and basses bearing body shapes that are identical, or substantially similar to, the '793 Body Shape, including, but not limited to, Acoustic, Aria, BC Kingston, Danelectro, Fender, Framus, Gretsch, Grimshall, Guild, Guitorgan, Hagstrom, Harmony, Hofner, Hohner, Ibanez, Kramer,¹ Levin, Micro-Frets, Mosrite, National, Ovation, Pearl, Roger, Standel, Travis Bean, Univox and Vox.

33. In the 1980's, even more companies were manufacturing, advertising, marketing and selling, in the United States, electric guitars and basses bearing body shapes that are identical, or substantially similar to, the '793 Body Shape, including, but not limited to, Antoria, Aria, Benedetto Guitars, Conn-Selmer, Daion, Danelectro, Defil, Egmond, Eko, Encore, Fender, Fenton-Weill, Fernandes, Galanti, Gretsch, Guild, Hagstrom, Heritage, Hofner, Hondo, Ibanez, Kramer, LAG, Maton, Moonstone, Ovation, Peavey, Premier, Teisco, Tom Holmes, Travis Bean, Valencia, Watkins Lag, Welson, Westbury, Wilson and Yamaha.

34. In the 1990's, even more companies were manufacturing, advertising, marketing and selling, in the United States, electric guitars and basses bearing body shapes that are

¹ Applicant purchased Kramer in or around 1998.

identical, or substantially similar to, the '793 Body Shape, including, but not limited to, Aria Artinger, Benedetto, Bolin, Borys, Campellone, D'Aquisto, David Thomas McNaught, DeArmond, Defil, Doyle, Ecceshall, Egmond, Eko, Encore, Fender, Fenton-Weill, Galanti, Giannini, Gretsch, Gordon-Smith, Guild, Hamer, Harmony, Heritage, Ibanez, Jackson, Kinkade, Kyle, Lacy, LAG, Manson, Maton, Oscar Schmidt, Ovation, Paulman, Premier, RC Allen, Ribbecke, Samick, Shergold (Hayman), Travis Bean, Vanden, Vox, Wal Custom, Washburn, Watkins Lag, Westbury, Welson, Wilson, Yamaha and Zimnicki.

35. In the 2000's, even more companies were manufacturing, advertising, marketing and selling, in the United States, electric guitars and basses bearing body shapes that are identical, or substantially similar to, the '793 Body Shape, including, but not limited to, Agile, Alden, Anderberg, Aria, Artinger, Austin, AXL, Bolin, BC Kingston, Brian May, Burly Guitars, Canvas, Carruthers, Collings, Cort, Crafter, Daisy Rock, Danelectro, D'Angelico, David Thomas McNaught, DBZ, DeArmond, Devlin, Eastman, Eastwood, Eleca, ESP, Eternity, First Act, Framus, Fritz Brothers, Fryer, Giannini, Gretsch, Guild, Hagstrom, Hamer, Hanson, Harmony, Heritage, Hofner, Hohner, Ibanez, J3, Jackson, Jay Turser, JB Player, Kona, LAG, Legends Guitar, M&M, Michael Kelly Guitars, OLP, Oscar Schmidt, Peavey, PRS, RC Allen, Ribbecke, Schecter, Sparrow, Stromberg, Tradition, Thorn, Vox, Warwick, Washburn, Wilson, Xaviere and Yamaha.

36. From 2010, and continuing through the date hereof, even more companies are manufacturing, advertising, marketing and selling, in the United States, electric guitars and basses bearing body shapes that are identical, or substantially similar to, the '793 Body Shape, including, but not limited to, Agile, Aria, Artinger, Bilt, Bolin, Brian May, Burly Guitars, Carvin, Cobra, Collings, Daisy Rock, Danelectro, D'Angelico, David Thomas McNaught, DBZ,

Delm Guitars, DGN, Dismal Ax, Dusenberg, Eastman, Eastwood, Electrical Guitar Company, ESP, Falbo, Fender, First Act, Framus, Fret-King Black Label, Gene Baker, Giannini, Gretsch, Guild, GZ Guitars, Hagstrom, Hanson, Harmony, Heritage, Highland, Hofner, Hutchins, Ibanez, Jarrett, Jay Turser, Kasuga, Kona, LAG, Martyn Booth, McCurdy, Navigator, Peavey, PRS, Ribbecke, Schecter, Slick Guitars, SX, Thorn, Tony Cochran, Valencia, Venture, Vox, Warwick, Washburn, Xaviere, Yamaha and Zimnicki

37. Upon information and belief, none of these third parties are subsidiaries of Applicant² nor did they license the ‘793 Body Shape from Applicant.

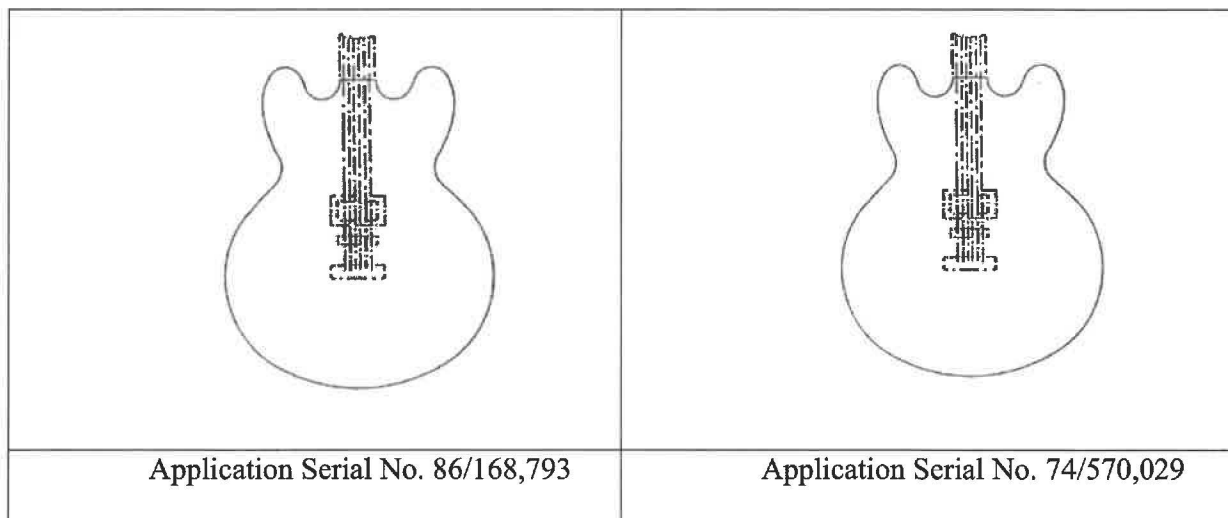
38. Upon information and belief, advertising and sales of third-party guitars bearing body shapes that are identical, or substantially similar to, the ‘793 Body Shape has been, and continues to equal or exceed the advertising and sales of Applicant’s guitars bearing the ‘793 Body Shape.

39. As a result of the foregoing rampant use by third parties, the ‘793 Body Shape is a generic electric guitar body shape, does not function as a source identifier and has become a standard style of guitar.

40. After almost forty (40) years of wide spread use of the ‘793 Body Shape by many musical instrument manufacturers, during which time neither Applicant nor its predecessor-in-interest ever treated the ‘793 Body Shape as a trademark, on or around September 6, 1994, Applicant filed Application Serial No. 74/570,029 seeking trademark registration for the ‘793 Body Shape on the Principal Register (the “‘029 App.”).

41. The drawing for the ‘029 App. is identical to the drawing for the ‘793 App.

² Including Kramer at the time it adopted the ‘793 Body Shape in the 1970’s.



42. The USPTO refused registration on the Principal Register stating that the ‘793 Body Shape “comprises the standard characteristics of an electronic guitar such as a broad based body, narrow mid-section, and overall curvilinear design.”

43. On or around July 23, 1996, Applicant amended the ‘029 App. to have the ‘793 Body Shape placed on the Supplemental Register, stating it “is in the process of gathering evidence which clearly establishes the distinctiveness of Applicant's mark and intends to file an application to register the mark on the Principal Register at a later date once that process is complete.”

44. The ‘029 App. matured into U.S. Registration No. 2,007,277 on the Supplemental Register.

45. Apparently, the process described in paragraph 29 took eighteen (18) years, and Applicant filed the ‘793 App. on January 17, 2014.

46. As a result of the foregoing rampant use by third parties for more than half a century, as well as Applicant's and its predecessor-in-interest's complete failure to treat the ‘793 Body Shape as a trademark, the ‘793 Body Shape is a generic electric guitar body shape and,

therefore, cannot function as a source identifier.

47. In the alternative, even if the ‘793 Body Shape has not become generic, the ‘793 App. for registration under 2(f) must be denied because stringed musical instrument consumers are confronted with numerous independent uses of body shapes substantially similar or identical to the ‘793 Body Shape. Accordingly, Applicant cannot have acquired distinctiveness in the ‘793 Body Shape.

48. If the ‘793 App. is granted registration and Applicant is granted an exclusive right to use the ‘793 Body Shape, the Opposers will have to discontinue all marketing, advertising and sales of stringed musical instrument products that contain the traditional body designs which are similar or identical the ‘793 Body Shape, and, therefore, Opposers will suffer non-reputational disadvantages and business injuries therefrom.

49. If the ‘793 App. is granted, the trademark rights granted to Applicant will have a chilling effect on the manufacture of a standard guitar body design that has been widely used in the musical instrument marketplace for more than half a century.

WHEREFORE, Opposers pray that the Application be refused, that no registration be issued thereon to Applicant and that this opposition be sustained in favor of Opposers.

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Dated: Hackensack, New Jersey
October 16, 2014

Respectfully submitted,
BIENSTOCK & MICHAEL, P.C.

By: /Ronald S. Bienstock/

Ronald S. Bienstock, Esq.
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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and complete copy of the foregoing Notice of Opposition has been served, via United States Postal Service first-class mail, certified, postage pre-paid, on October 16, 2014, on:

GIBSON BRANDS, INC.
309 Plus Park Boulevard
Nashville, TN 37217

REGISTRANT

s/ Arrielle S. Millstein/
Arrielle S. Millstein, Esq.

CERTIFICATE OF FILING

I hereby certify that this correspondence, including all enclosures and attachments, is being transmitted to the United States Patent and Trademark Office, Trademark Trial and Appeal Board, via the TTAB's ESTTA procedure on October 16, 2014.

/Brent M. Davis/
Brent M. Davis, Esq.